

House File 364 - Introduced

HOUSE FILE _____
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HF 186)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act transferring the authority to register postsecondary
2 schools from the secretary of state to the college student aid
3 commission and providing for related matters, and making
4 penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1860HV 83
7 kh/nh/14

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1 1 Section 1. Section 261.2, subsection 7, unnumbered
1 2 paragraph 1, Code 2009, is amended to read as follows:
1 3 Adopt rules to establish reasonable registration standards
1 4 for the approval, pursuant to section 261B.3A, of
1 5 postsecondary schools that are required to register with the
1 6 ~~secretary of state commission~~ in order to operate in this
1 7 state. The registration standards established by the
1 8 commission shall ensure that all of the following conditions
1 9 are satisfied:
1 10 Sec. 2. Section 261.2, subsection 8, Code 2009, is amended
1 11 by striking the subsection.
1 12 Sec. 3. Section 261B.2, Code 2009, is amended by adding
1 13 the following new subsection:
1 14 NEW SUBSECTION. 0A. "Commission" means the college
1 15 student aid commission created pursuant to section 261.1.
1 16 Sec. 4. Section 261B.2, subsection 4, Code 2009, is
1 17 amended by striking the subsection.
1 18 Sec. 5. Section 261B.3, Code 2009, is amended to read as
1 19 follows:
1 20 261B.3 REGISTRATION.
1 21 1. ~~A~~ Except as provided in section 261B.11, a school that
1 22 maintains or conducts one or more courses of instruction,
1 23 including courses of instruction by correspondence or other
1 24 distance delivery method, offered in this state or which has a
1 25 presence in this state and offers courses in other states or
1 26 foreign countries shall register with the ~~secretary~~
1 27 commission. Registrations shall be renewed every four years
1 28 or upon any substantive change in ~~program offerings~~, location,
1 29 or accreditation. Registration shall be made on application
1 30 forms approved and supplied by the ~~secretary commission~~ and at
1 31 the time and in the manner prescribed by the ~~secretary~~
1 32 commission. Upon receipt of a complete and accurate
1 33 registration application, the ~~secretary commission~~ shall issue
1 34 an acknowledgment of document filed and send it to the school.
1 35 2. The ~~secretary commission~~ may request additional
2 1 information as necessary to enable the ~~secretary commission~~ to
2 2 determine the accuracy and completeness of the information
2 3 contained in the registration application. If the ~~secretary~~
2 4 commission believes that false, misleading, or incomplete
2 5 information has been submitted in connection with an
2 6 application for registration, the ~~secretary commission~~ may
2 7 deny registration. The ~~secretary commission~~ shall conduct a
2 8 hearing on the denial if a hearing is requested by a school.
2 9 The ~~secretary commission~~ may withhold an acknowledgment of
2 10 document filed pending the outcome of the hearing. Upon a
2 11 finding after the hearing that information contained in the
2 12 registration application is false, misleading, or incomplete,
2 13 the ~~secretary commission~~ shall deny an acknowledgment of
2 14 document filed to the school. The ~~secretary commission~~ shall
2 15 make the final decision on each registration. However, the
2 16 decision of the ~~secretary commission~~ is subject to judicial

2 17 review in accordance with section 17A.19.

2 18 3. The ~~secretary commission~~ shall adopt rules under
2 19 chapter 17A for the implementation of this chapter.

2 20 Sec. 6. Section 261B.3A, Code 2009, is amended to read as
2 21 follows:

2 22 261B.3A REQUIREMENTS.

2 23 1. In order to register, a school shall be accredited by
2 24 an agency or organization approved or recognized by the United
2 25 States department of education or a successor agency, be
2 26 ~~approved by any other state agency authorized to approve the~~
2 27 ~~school in this state, and, except as provided in subsection 2~~
2 28 ~~subsequently, be approved for operation by the college student~~
2 29 ~~aid commission.~~

2 30 2. A practitioner preparation program ~~that is~~ operated by
2 31 a school that applies to register the program in accordance
2 32 with this chapter shall, in order to register, be accredited
2 33 by an agency or organization approved or recognized by the
2 34 United States department of education or a successor agency
2 35 ~~and, in addition, be approved by the state board of education~~
3 1 pursuant to section 256.7, subsection 3, ~~and, subsequently, be~~
3 2 ~~approved for operation by the commission.~~

3 3 ~~3. Nothing in this chapter shall be construed to exempt a~~
3 4 ~~school from the requirements of chapter 490 or 491.~~

3 5 Sec. 7. Section 261B.4, unnumbered paragraph 1, Code 2009,
3 6 is amended to read as follows:

3 7 As a basis for registration, schools shall provide the
3 8 ~~secretary commission~~ with the following information:

3 9 Sec. 8. Section 261B.5, Code 2009, is amended to read as
3 10 follows:

3 11 261B.5 CHANGES.

3 12 If any information provided to the ~~secretary commission~~
3 13 under section 261B.3 or 261B.4 changes, the school shall
3 14 inform the ~~secretary commission~~ within ninety days of the
3 15 effective date of the change ~~on forms prescribed and furnished~~
3 16 ~~in the format specified by the secretary commission.~~

3 17 Sec. 9. Section 261B.6, Code 2009, is amended to read as
3 18 follows:

3 19 261B.6 LIST OF SCHOOLS.

3 20 The ~~secretary commission~~ shall maintain a list of
3 21 registered schools and the list and the information submitted
3 22 under sections 261B.3 and 261B.4 are public records under
3 23 chapter 22.

3 24 Sec. 10. Section 261B.7, Code 2009, is amended to read as
3 25 follows:

3 26 261B.7 UNAUTHORIZED REPRESENTATION.

3 27 Neither a school nor its officials or employees shall
3 28 advertise or represent that the school is approved or
3 29 accredited by the ~~secretary commission~~ or the state of Iowa
3 30 nor shall it use the registration as a reference in
3 31 promotional materials.

3 32 Sec. 11. Section 261B.8, subsection 1, Code 2009, is
3 33 amended to read as follows:

3 34 1. The ~~secretary commission~~ shall set by rule and collect
3 35 a nonrefundable initial registration fee and a renewal of
4 1 registration fee from each registered school.

4 2 Sec. 12. Section 261B.10, Code 2009, is amended by
4 3 striking the section and inserting in lieu thereof the
4 4 following:

4 5 261B.10 ADVISORY COMMITTEE.

4 6 1. The commission shall establish an advisory committee on
4 7 postsecondary registration to review and make recommendations
4 8 relating to applications from schools required to register
4 9 pursuant to this chapter. The commission shall adopt rules
4 10 establishing the policies and procedures of the advisory
4 11 committee. Meetings of the advisory committee are subject to
4 12 the requirements of chapter 21.

4 13 2. The members of the advisory committee on postsecondary
4 14 registration shall include one representative from the
4 15 commission and one representative from each of the following:

4 16 a. The state board of regents.

4 17 b. The department of education.

4 18 c. The office of the attorney general.

4 19 d. A community college located in this state.

4 20 e. A not-for-profit accredited private institution as
4 21 defined in section 261.9, incorporated or otherwise organized
4 22 under the laws of this state.

4 23 f. A for-profit accredited private institution as defined
4 24 in section 261.9, subsection 1, incorporated or otherwise
4 25 organized under the laws of this state.

4 26 Sec. 13. Section 261B.11, subsections 8 and 9, Code 2009,
4 27 are amended to read as follows:

4 28 8. Schools and educational programs conducted by religious
4 29 organizations solely for the religious instruction of ~~members~~
4 30 ~~leadership practitioners~~ of that religious organization.

4 31 9. Postsecondary educational institutions licensed by the
4 32 state of Iowa prior to July 1, 2009, to conduct business in
4 33 the state.

4 34 Sec. 14. Section 261B.12, Code 2009, is amended to read as
4 35 follows:

5 1 261B.12 ENFORCEMENT.

5 2 1. When the ~~secretary commission~~ or the ~~secretary's~~
5 3 ~~commission's~~ designee believes a school is in violation of
5 4 this chapter, the ~~secretary commission~~ shall order the school
5 5 to show cause why the ~~secretary commission~~ should not issue a
5 6 cease and desist order to the school.

5 7 2. After the school's response to the show cause order has
5 8 been reviewed by the ~~secretary commission~~, the ~~secretary~~
5 9 ~~commission~~ may issue a cease and desist order to the school if
5 10 the ~~secretary commission~~ believes the school continues to be
5 11 in violation of this chapter. If the school does not cease
5 12 and desist, the ~~secretary commission~~ may seek judicial
5 13 enforcement of the cease and desist order in any district
5 14 court.

5 15 Sec. 15. Section 714.18, Code 2009, is amended to read as
5 16 follows:

5 17 714.18 EVIDENCE OF FINANCIAL RESPONSIBILITY.

5 18 1. Except as otherwise provided in subsection 4 2, every
5 19 person, firm, association, or corporation maintaining or
5 20 conducting in Iowa any such course of instruction, by
5 21 classroom instruction or by correspondence, ~~or other distance~~
5 22 ~~delivery method~~, or soliciting in Iowa the sale of such
5 23 course, shall file with the ~~secretary of state college student~~
5 24 ~~aid commission~~ the following:

5 25 1- a. A continuous corporate surety bond to the state of
5 26 Iowa in the sum of fifty thousand dollars conditioned for the
5 27 faithful performance of all contracts and agreements with
5 28 students made by such person, firm, association, or
5 29 corporation, or their salespersons; but the aggregate
5 30 liability of the surety for all breaches of the conditions of
5 31 the bond shall not exceed the sum of the bond. The surety on
5 32 the bond may cancel the bond upon giving thirty days' written
5 33 notice to the ~~secretary of state college student aid~~
5 34 ~~commission~~ and thereafter shall be relieved of liability for
5 35 any breach of condition occurring after the effective date of
6 1 the cancellation.

6 2 2- b. A statement designating a resident agent for the
6 3 purpose of receiving service in civil actions. In the absence
6 4 of such designation, service may be had upon the secretary of
6 5 state if service cannot otherwise be made in this state.

6 6 3- c. A copy of any catalog, prospectus, brochure, or
6 7 other advertising material intended for distribution in Iowa.
6 8 Such material shall state the cost of the course offered, the
6 9 schedule of refunds for portions of the course not completed,
6 10 and if no refunds are to be paid, the material shall so state.
6 11 Any contract induced by advertising materials not previously
6 12 filed as provided in this chapter shall be voidable on the
6 13 part of the pupil or any person liable for the tuition
6 14 provided for in the contract.

6 15 4- 2. A school licensed under the provisions of section
6 16 157.8 or 158.7 shall file with the ~~secretary of state college~~
6 17 ~~student aid commission~~ the following:

6 18 a. (1) A continuous corporate surety bond to the state of
6 19 Iowa in the sum of fifty thousand dollars or ten percent of
6 20 the total annual tuition collected, whichever is less,
6 21 conditioned for the faithful performance of all contracts and
6 22 agreements with students made by such school. A school
6 23 desiring to file a surety bond based on a percentage of annual
6 24 tuition shall provide to the ~~secretary of state college~~
6 25 ~~student aid commission~~, in the form prescribed by the
6 26 ~~secretary commission~~, a notarized statement attesting to the
6 27 total amount of tuition collected in the preceding
6 28 twelve-month period. The ~~secretary commission~~ shall determine
6 29 the sufficiency of the statement and the amount of the bond.
6 30 Tuition information submitted pursuant to this ~~paragraph~~
6 31 ~~subparagraph~~ shall be kept confidential.

6 32 (2) If the school has filed a performance bond with an
6 33 agency of the United States government pursuant to federal
6 34 law, the ~~secretary of state college student aid commission~~
6 35 shall reduce the bond required by this paragraph "a" by an
7 1 amount equal to the amount of the federal bond.

7 2 (3) The aggregate liability of the surety for all breaches
7 3 of the conditions of the bond shall not exceed the sum of the

7 4 bond. The surety on the bond may cancel the bond upon giving
7 5 thirty days' written notice to the ~~secretary of state college~~
7 6 ~~student aid commission~~ and thereafter shall be relieved of
7 7 liability for any breach of condition occurring after the
7 8 effective date of the cancellation.

7 9 (4) The ~~secretary of state college student aid commission~~
7 10 may accept a letter of credit from a bank in lieu of the
7 11 corporate surety bond required by this paragraph "a".

7 12 b. The statement required in subsection 2 1, paragraph
7 13 "b".

7 14 c. The materials required in subsection 3 1, paragraph
7 15 "c".

7 16 Sec. 16. NEW SECTION. 714.21A CIVIL ENFORCEMENT.

7 17 A violation of chapter 261B, or section 714.17, 714.18, or
7 18 714.20 constitutes an unlawful practice pursuant to section
7 19 714.16.

7 20 Sec. 17. Section 714.22, subsections 1 and 2, Code 2009,
7 21 are amended to read as follows:

7 22 1. File a bond or a bond is filed on their behalf by a
7 23 parent corporation with the ~~secretary of state college student~~
7 24 ~~aid commission~~ as required by section 714.18.

7 25 2. File an annual sworn statement, or such statement is
7 26 filed on their behalf by a parent corporation, certified by a
7 27 certified public accountant, showing all assets and
7 28 liabilities of the trade or vocational school and the assets
7 29 of any parent corporation. The statement shall show the trade
7 30 or vocational school's net worth, or the net worth of the
7 31 parent corporation, to be not less than five times the amount
7 32 of the bond required by section 714.18. If a parent
7 33 corporation files the statement or its net worth is included
7 34 in the statement to comply with this subsection, the parent
7 35 corporation shall appoint a registered agent and otherwise is
8 1 subject to section 714.18, subsection 2 1, paragraph "b", and
8 2 is liable for the breach of any contract or agreement with
8 3 students as well as liable for any fraud in connection with
8 4 the contract or agreement or for any violation of section
8 5 714.16 by the trade or vocational school or any of its agents
8 6 or salespersons.

8 7 EXPLANATION

8 8 This bill transfers the administrative duties relating to
8 9 the registration of postsecondary schools, and the evidence of
8 10 financial responsibility those schools must file, from the
8 11 office of the secretary of state to the college student aid
8 12 commission. The bill also establishes that a postsecondary
8 13 school that maintains or conducts courses of instruction by
8 14 distance delivery methods in Iowa must register with the
8 15 commission and provide evidence of financial responsibility.
8 16 The bill makes conforming changes to a number of Code
8 17 provisions.

8 18 The bill modifies the registration requirements by adding
8 19 that the school must be approved by all state agencies
8 20 authorized to approve the school before being approved to
8 21 operate by the commission. The bill eliminates a requirement
8 22 which provides that a substantial change in program offerings
8 23 means the school must renew its registration. The bill adds
8 24 that a practitioner preparation program, which must be
8 25 accredited and approved by the state board of education to
8 26 operate in this state, must also be approved for operation by
8 27 the commission. A violation of the registration requirements
8 28 constitutes an unlawful practice under the consumer fraud Act.

8 29 The bill alters the membership on the advisory committee on
8 30 postsecondary registration to replace the representative of
8 31 the office of secretary of state with a representative of the
8 32 commission, and adds to the membership a representative from a
8 33 for-profit accredited private institution.

8 34 The bill modifies the list of schools and courses of
8 35 instruction exempt from Code chapter 261B, relating to the
9 1 registration of postsecondary schools, by providing that
9 2 schools and education programs conducted by religious
9 3 organizations are only exempt when providing instruction to
9 4 leadership practitioners of that religious organization, and
9 5 by providing that postsecondary educational institutions must
9 6 be licensed by the state to conduct business in the state
9 7 prior to July 1, 2009, in order to be exempt from the Code
9 8 chapter.

9 9 The bill also specifies that registration under Code
9 10 chapter 261B does not exempt a school from the requirements of
9 11 the Iowa business corporation Act or for organization of a
9 12 corporation for pecuniary profit under Code chapter 491.

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